



Billing Code 4310–55

DEPARTMENT OF THE INTERIOR

[FWS–R4–FHC–2014–N088; FVHC98130406900–XXX–FF04G01000]

***Deepwater Horizon* Oil Spill; Final Programmatic and Phase III Early Restoration Plan and Final Early Restoration Programmatic Environmental Impact Statement**

AGENCY: Interior.

ACTION: Notice of availability.

SUMMARY: In accordance with the Oil Pollution Act of 1990 (OPA) and the National Environmental Policy Act (NEPA), notice is hereby given that the Federal and State natural resource trustee agencies (Trustees) have prepared a Final Programmatic and Phase III Early Restoration Plan and Final Early Restoration Programmatic Environmental Impact Statement (Final Phase III ERP/PEIS). The Final Phase III ERP/PEIS considers programmatic alternatives comprised of early restoration project types that would restore natural resources, ecological services, and recreational use services injured or lost as a result of the *Deepwater Horizon* oil spill and related response actions. The Trustees additionally propose to select 44 specific early restoration projects for implementation that are consistent with the proposed preferred early

restoration program alternative. The Trustees have developed restoration alternatives and projects to utilize funds for early restoration being provided under the Framework for Early Restoration Addressing Injuries Resulting from the *Deepwater Horizon* Oil Spill (Framework Agreement) discussed below. The Final Phase III ERP/PEIS evaluates these programmatic restoration alternatives and projects under criteria set forth in the natural resource damage assessment regulations and the Framework Agreement. The Final Phase III ERP/PEIS also evaluates the environmental consequences of the restoration alternatives and projects under NEPA. The purpose of this notice is to inform the public of the availability of the Final Phase III ERP/PEIS.

ADDRESSES: *Obtaining Documents:* You may download the Final Phase III ERP/PEIS at <http://www.gulfspillrestoration.noaa.gov> or <http://www.doi.gov/deepwaterhorizon>. You may also view the Final Phase III ERP/PEIS at any of the public repositories listed at <http://www.gulfspillrestoration.noaa.gov>.

FOR FURTHER INFORMATION CONTACT: Nanciann Regalado at nanciann_regalado@fws.gov.

SUPPLEMENTARY INFORMATION:

Introduction

On or about April 20, 2010, the mobile offshore drilling unit *Deepwater Horizon*, which was being used to drill a well for BP Exploration and Production, Inc. (BP), in the

Macondo prospect (Mississippi Canyon 252–MC252), experienced a significant explosion, fire, and subsequent sinking in the Gulf of Mexico, resulting in an unprecedented volume of oil and other discharges from the rig and from the wellhead on the seabed. The *Deepwater Horizon* oil spill is the largest oil spill in U.S. history, discharging millions of barrels of oil over a period of 87 days. In addition, well over a million gallons of dispersants were applied to the waters of the spill area in an attempt to disperse the spilled oil. An undetermined amount of natural gas was also released into the environment as a result of the spill.

The State and Federal natural resource trustees (Trustees) are conducting the natural resource damage assessment for the *Deepwater Horizon* oil spill under the Oil Pollution Act 1990 (OPA; 33 U.S.C. 2701 *et seq.*). Pursuant to OPA, Federal and State agencies act as trustees on behalf of the public to assess natural resource injuries and losses of natural resource services, and to determine the actions required to compensate the public for those injuries and losses. OPA further instructs the designated trustees to develop and implement a plan for the restoration, rehabilitation, replacement, or acquisition of the equivalent of the injured natural resources under their trusteeship, including the loss of use and services from those resources from the time of injury until the time restoration to baseline (the resource quality and conditions that would exist if the spill had not occurred) is complete. Pursuant to the process articulated in the Framework Agreement the Trustees have previously selected, and BP has agreed to fund, a total of 10 early restoration projects, expected to total approximately \$71 million, through the Phase I Early Restoration Plan/Environmental Assessment (Phase I ERP) and Phase II Early

Restoration Plan/Environmental Review (Phase II ERP). These plans are available at <http://www.gulfspillrestoration.noaa.gov/restoration/early-restoration/>.

The Trustees are:

- U.S. Department of the Interior (DOI), as represented by the National Park Service, U.S. Fish and Wildlife Service, and Bureau of Land Management;
- National Oceanic and Atmospheric Administration (NOAA), on behalf of the U.S. Department of Commerce;
- U.S. Department of Agriculture (USDA);
- U.S. Environmental Protection Agency (USEPA);
- State of Louisiana Coastal Protection and Restoration Authority, Oil Spill Coordinator's Office, Department of Environmental Quality, Department of Wildlife and Fisheries, and Department of Natural Resources;
- State of Mississippi Department of Environmental Quality;
- State of Alabama Department of Conservation and Natural Resources and Geological Survey of Alabama;
- State of Florida Department of Environmental Protection and Fish and Wildlife Conservation Commission; and
- Texas Parks and Wildlife Department, Texas General Land Office, and Texas Commission on Environmental Quality;
- The Department of Defense (DOD) is also a trustee of natural resources associated with DOD-managed land on the Gulf Coast, which is included in the ongoing NRDA; however DOD is not a signatory of the Framework Agreement nor a participant in this Phase III Early Restoration Plan.

Background

On April 20, 2011, BP agreed to provide up to \$1 billion toward early restoration projects in the Gulf of Mexico to address injuries to natural resources caused by the *Deepwater Horizon* oil spill. The Framework Agreement represents a preliminary step toward the restoration of injured natural resources. The Framework Agreement is intended to expedite the start of restoration in the Gulf in advance of the completion of the injury assessment process. The Framework Agreement provides a mechanism through which the Trustees and BP can work together “to commence implementation of early restoration projects that will provide meaningful benefits to accelerate restoration in the Gulf as quickly as practicable” prior to the resolution of the Trustees’ natural resource damages claim.

The Trustees actively solicited public input on restoration project ideas through a variety of mechanisms, including convening public meetings, distributing electronic communications, and use of the Trustee-wide public website and database to share information and receive public project submissions. The key objective in pursuing early restoration is to secure tangible recovery of natural resources and natural resource services for the public’s benefit while the longer term process of fully assessing injury and damages is under way. The Trustees released, after public review of a draft, a Phase I Early Restoration Plan/Environmental Assessment (Phase I ERP/EA) in April 2012 (April 20, 2012, 77 FR 23741). Subsequently, the Trustees released, after public review

of a draft, a Phase II Early Restoration Plan/ Environmental Review (Phase II ERP/ ER) in December 2012 (78 FR 8184).

The Trustees considered hundreds of projects leading to the identification of a potential 28 future early restoration projects announced in the May 6, 2013 Federal Register notice (78 FR 26319). On June 4, 2013, the Trustees announced their intent to prepare a Programmatic Environmental Impact Statement (PEIS) under OPA and the National Environmental Policy Act (NEPA) to evaluate the environmental consequences of early restoration project types, as well as to propose a Phase III Early Restoration Plan to address injuries from the *Deepwater Horizon* oil spill that would include the 28 early restoration projects announced in the May 6, 2013 Federal Register notice and an additional 16 projects. In accordance with NEPA, the Trustees conducted scoping to identify the concerns of the affected public, Federal agencies, States, and Indian tribes; involved the public in the decision making process; facilitated efficient early restoration planning and environmental review; defined the issues and alternatives that would be examined in detail; and saved time by ensuring that draft documents adequately addressed relevant issues. A scoping process reduces paperwork and delay by ensuring that important issues are considered early in the decision making process. To gather public input, the Trustees hosted six public meetings and accepted written comment electronically and via U.S. mail during the scoping period.

Notice of availability of the Draft Programmatic and Phase III Early Restoration Plan and Draft Early Restoration Programmatic Environmental Impact Statement (Draft Phase III ERP/PEIS) was published in the Federal Register on December 6, 2013 (78 FR 73555). The Draft Phase III ERP/PEIS considered programmatic alternatives for

early restoration and proposed 44 early restoration projects in Phase III of early restoration consistent with the project types included in the proposed programmatic alternative. The Trustees provided the public with 75 days to review and comment on the Draft Phase III ERP/PEIS (including a 15-day extension of the original announced 60 day comment period). The Trustees also held public meetings in Mobile, Alabama; Long Beach, Mississippi; Belle Chasse, Thibodaux, and Lake Charles, Louisiana; Port Arthur, Galveston, and Corpus Christi, Texas; and Pensacola, Florida to facilitate public. The Trustees considered the public comments received which informed the Trustees' analyses of programmatic alternatives and specific early restoration projects in the Final Phase III ERP/PEIS. A summary of the public comments received and the Trustees' responses to those comments are addressed in Chapter 13 of the Final Phase III ERP/PEIS.

Overview of the Phase III ERP/PEIS

The Final Phase III ERP/PEIS is being released in accordance with the Oil Pollution Act (OPA), the Natural Resource Damage Assessment (NRDA) regulations found in the Code of Federal Regulations (CFR) at 15 CFR 990, the National Environmental Policy Act (NEPA) (42 U.S.C. 4321 *et seq.*), and the Framework Agreement.

The Final Phase III ERP/PEIS proposes early restoration programmatic alternatives and evaluates the potential environmental effects and cumulative effects of those alternatives. The Final Phase III ERP/PEIS groups 12 project types into two

categories: (1) Contribute to Restoring Habitats and Living Coastal and Marine Resources, and (2) Contribute to Providing and Enhancing Recreational Opportunities. These categories provide the basis for defining the list of four alternatives considered in the document:

- Alternative 1: No Action (No Additional Early Restoration);
- Alternative 2: Contribute to Restoring Habitats and Living Coastal and Marine Resources;
- Alternative 3: Contribute to Providing and Enhancing Recreational Opportunities; and
- Alternative 4 (Preferred Alternative): Contribute to Restoring Habitats, Living Coastal and Marine Resources, and Recreational Opportunities.

The Trustees propose to select 44 projects as described in the Final Phase III ERP/PEIS, totaling an estimated cost of approximately \$627 million.

The proposed restoration projects are intended to continue the process of using early restoration funding to restore natural resources, ecological services, and recreational use services injured or lost as a result of the *Deepwater Horizon* oil spill. The Trustees considered both ecological and recreational use restoration projects to restore injuries caused by the *Deepwater Horizon* oil spill, addressing both the physical and biological environment, as well as the relationship people have with the environment.

The projects proposed in Phase III are not intended to, and do not fully address all injuries caused by the spill or provide the extent of restoration needed to make the public and the environment whole. The Trustees anticipate that additional early restoration

projects will be proposed in the future as the early restoration process continues.

Next Steps

In accordance with NEPA, a Federal agency must prepare a concise public Record of Decision (ROD) at the time the agency makes a decision in cases involving an EIS (40 CFR 1505.2). Accordingly, DOI on behalf of the Trustees, will prepare a ROD for the Final Phase III ERP/PEIS that provides and explains the Trustees' decisions regarding the selection of a programmatic early restoration alternative and specific early restoration projects. The Trustees will issue the ROD no earlier than 30 days after the Environmental Protection Agency publishes a notice in the Federal Register announcing the availability of the Final Phase III ERP/PEIS (40 CFR §1506.10).

Administrative Record

An Administrative Record has been established and can be viewed electronically at <http://www.doi.gov/deepwaterhorizon/adminrecord/index.cfm>.

Authorities

The authorities of this action are the Oil Pollution Act of 1990 (33 U.S.C. 2701 *et seq.*), the implementing Natural Resource Damage Assessment regulations found at 15 CFR 990, NEPA, and the Framework Agreement.

Cynthia K. Dohner,
DOI Authorized Official.

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